

# COMMISSION AGENDA REPORT

m-8

COMMISSION MEETING DATE: 06-07-2005

AGENDA ITEM: M-8

COMMISSION REPORT NO: 05-0525

PREPARED BY: John Hoelzle 05-19-2005 16:28:38

DEPT: Parking and Fleet Services

DEPARTMENT DIRECTOR'S SIGNATURE

Karen Van Assche, Administrative Aide, 954-828-3764

AUTHOR'S NAME, TITLE, AND TELEPHONE NUMBER

George Gretsas 06-01-2005 18:18:29

CITY MANAGER'S SIGNATURE

TITLE 1: SECOND AMENDMENT TO OPERATIONS AGREEMENT

TITLE 2: ARTS AND SCIENCE DISTRICT PARKING FACILITY

SUBJECT:

A motion authorizing the proper City Officials to execute a Second Amendment to the Operations Agreement with the Broward Performing Arts Center Authority and the Downtown Development Authority to clarify division of expenses for the Arts and Science District Parking Facility.

PROPERTY LOCATION/ADDRESS:

REQUESTED ACTION (STAFF RECOMMENDATION - CONTENT OF MOTION):

Motion to approve.

- REGULAR AGENDA
    - Motion
    - Public Hearing
    - Resolution
    - Purchase
  - CONFERENCE
    - Motion for Discussion
    - Ordinance
    - Presentation
    - Citizen Presentation
  - COMMISSION MEMO
    - Old/New Business
    - CRA
    - Exec Closed Door
    - Advisory Boards
    - City Commission Reports
    - City Manager Reports
- Guest Speaker

Public Notice Advertised:

Name of Guest Speaker:

Affiliation of Guest Speaker:

FUNDS APPROPRIATION/TRANSFER (provide index code, subobject, and title of subobject):

## FOR PROCUREMENT ITEMS ONLY

PROCUREMENT REFERENCE NO: TRANSACTION TYPE:

BIDS SOLICITED/RECEIVED: WBE: LATE BID:

Vendor: MBE: NO BID:

Amount: Details:

Procurement Recommendation:

**Description of Exhibits:**

- |                            |    |    |
|----------------------------|----|----|
| 1. Highlights of Amendment | 2. | 3. |
|                            | 5. | 6. |
| 7.                         | 8. | 9. |

**EXHIBITS: AVAILABLE VIA HARDCOPY: Exhibit #s:**

**PRIOR COMMISSION/BOARD ACTION: (attach additional file if necessary)**

**BACKGROUND/DETAIL: (2000 character limit)**

The Downtown Development Authority (DDA) of the City of Fort Lauderdale, the Performing Arts Center Authority (PACA), and the City of Fort Lauderdale have created a "Second Amendment to the Operations Agreement Relating to the Arts and Science District Parking Facility" to help clarify the division of expenses between all three parties and to more equitably redistribute the variable expenses for the operation of this garage facility between the DDA and PACA who is the primary benefactor regarding the use of this facility (see details in Exhibit 1 attached).

**Document Name:**

**Type:**

**Expiration Date:**  **Attorney's Initials:**

**SECOND AMENDMENT  
TO  
OPERATIONS AGREEMENT RELATING TO  
ARTS AND SCIENCE DISTRICT PARKING FACILITY**

THIS SECOND AMENDMENT is entered into by and among THE DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF FORT LAUDERDALE, FLORIDA, a special taxing district operating under the Laws of the State of Florida ("DDA"), THE PERFORMING ARTS CENTER AUTHORITY, a body corporate and politic organized pursuant to Chapter 84-396 of the Laws of the State of Florida, as amended ("PACA"), THE CITY OF FORT LAUDERDALE, a municipal corporation operating under the Laws of the State of Florida ("City"), and the MUSEUM OF DISCOVERY AND SCIENCE, formerly known as ("f/k/a") THE DISCOVERY CENTER, INC., a non-profit Florida corporation ("DC").

**WITNESSETH:**

WHEREAS, the parties hereto entered into an Operations Agreement relating to the Arts and Science District Parking Facility ("Operations Agreement") on or about November 16, 1989, providing for the operations and maintenance of the approximately nine hundred fifty-six (956) space parking facility known as the Arts and Science District Parking Facility ("GARAGE"); and

WHEREAS, the Operations Agreement was amended pursuant to the Amendment to Escrow Agreement, Construction Agreement, and Operations Agreement on or about July 31, 1991; and

WHEREAS, the DDA, PACA, and the City (collectively "Contributing Parties") are solely responsible for revenues and expenses; and

WHEREAS, the Contributing Parties wish to clarify the division of expenses pursuant to the Operations Agreement, as amended.

NOW, THEREFORE, in consideration of the covenants set forth herein, and of the good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The above recitals are true and correct and incorporated herein.
2. Section 5.1 of the Operations Agreement, as amended, shall be amended to read as follows:
  - 5.1 Allocation of Expenses. Expenses of operating and maintaining the GARAGE shall be borne by the Contributing Parties as set forth herein.
    - A. Fixed Expenses. The following garage operating expenses shall be borne by the Contributing Parties on a percentage basis of forty-two percent (42%)

to PACA, forty-two percent (42%) to DDA, and sixteen percent (16%) to the City:

- a. Custodial Personnel costs including salary, fringe benefits, related taxes, and workers' compensation.
- b. Cleaning Services for elevators and windows.
- c. Equipment Rental.
- d. Telephone.
- e. Water, Sewer, and Stormwater expenses.
- f. Service Charge for all Public Services.
- g. Property Insurance.

B. Compensation for GARAGE personnel. Compensation for GARAGE personnel includes salary, fringe benefits, related taxes, and workers' compensation. DDA and City shall pay eighty-four percent (84%) and sixteen percent (16%) respectively, of weekday daytime (6:00 a.m. to 6:00 p.m.) compensation for GARAGE personnel. PACA and City shall pay eighty-four percent (84%) and sixteen percent (16%) respectively, of compensation for GARAGE personnel during other hours (6:01 p.m. to 5:59 a.m. weekdays and all weekend hours).

C. Variable Expenses. All other expenses shall be deemed variable expenses and shall be allocated to the Contributing Parties each month based either on Paragraph 1 or Paragraph 2 below:

1. The ratio of time for weekday daytime operations to total time in a week. Such ratio shall be computed as the percentage of a total week's time that is equal to 6:00 a. m. to 6:00 p. m. each weekday or sixty (60) hours divided by the total hours in a week or one hundred sixty-eight (168) hours. Such ratio is thirty-five and seven tenth percent (35.7%) of a total week's time. Such set percentage of thirty-five and seven tenth percent (35.7%) per week will be utilized to allocate the following garage operating expenses to the DDA and the City on a monthly basis who will share these allocations in the standard allocation of an eighty-four percent (84%) share to the DDA and a sixteen percent (16%) share to the City:

- a. Security Services.
- b. All Other Services.
- c. Repair and Maintenance.
- d. Electricity.
- e. External Printing Services.
- f. Office Supplies.
- g. Service Charge for Print Shop.
- h. General Liability.
- i. All Other Insurance.

The remaining percentage of a total week's time or sixty-four and three tenth percent (64.3%) will be utilized to allocate the above-stated garage operating expenses to PACA and the City on a monthly basis who will share these expenses based on their standard allocations of an eighty-four percent (84%) share to PACA and a sixteen percent (16%) share to the City; or

2. As agreed to by the parties to this Operations Agreement, the allocation basis for the following variable expenses will be based on the ratio of allocated year-to-date revenue of each of the Contributing Parties to the total year-to-date revenue from garage operations:

- a. Auto Liability.
- b. Other Supplies.

3. Any valid garage operating expense incurred but not included or identified with any of the above-stated garage operating expenses, for which there are written documentation of such expenses, will be allocated based on the ratio of allocated revenue.

D. Major Repair or Capital Expenditures. The capital expenditures required to maintain the GARAGE shall be borne by the Contributing Parties as follows:

1. Pressure Cleaning the entire GARAGE: Fifty percent (50%) of the total pressure cleaning costs shall be allocated to the Contributing Parties based on the year-to-date revenues allocated to the Contributing Parties. The remaining fifty percent (50%) of such costs shall be allocated based on the percentage basis of forty-two percent (42%) by the DDA, forty-two percent (42%) by PACA, and sixteen percent (16%) by the City.

2. The total actual cost for each of the expenditures listed in number (a) through (d) below shall be allocated based on the year-to-date ratio of revenue allocated to each Contributing Party for the following.

- a. Replace existing vehicle stops.
- b. Replace existing elevator doors and jambs.
- c. Replace corroded vinyl coated steel barrier cables on upper deck.
- d. Repair existing expansion joints.

3. The total actual cost for each of the expenditures listed in numbers (a) through (e) below shall be allocated and borne by the Contributing Parties on a percentage basis of forty-two percent (42%) by PACA, forty-two percent (42%) by DDA, and sixteen percent (16%) by the City.

- a. Repair old deck drains.
- b. Replace all Handrail post extensions.
- c. Clean and paint all existing surfaces that are currently painted.
- d. Replace existing handrails in stairs.
- e. Replace existing stairwell exit and utility doors.

4. Any other repair or capital expenditure required to maintain the GARAGE that is not identifiable and, therefore, not included within any of the expenditures specifically listed in Section 5.1(D), shall be allocated and borne by the Contributing Parties on a percentage basis of forty-two percent (42%) by PACA, forty-two percent (42%) by DDA, and sixteen percent (16%) by the City.

3. **Effective Date.** This Second Amendment shall be effective retroactive to October 1, 2002.

4. All other terms and conditions of the Operations Agreement, as amended, not specifically amended by this Second Amendment shall remain fully in effect.

IN WITNESS WHEREOF, the parties have executed this Second Amendment to the Operations Agreement on the dates set forth under their respective signatures, effective retroactively to October 1, 2002.

(The remainder of this page is intentionally left blank.)

SECOND AMENDMENT TO OPERATIONS AGREEMENT RELATING TO ARTS AND SCIENCE DISTRICT PARKING FACILITY

DDA

SIGNED AND SEALED in the presence of:

THE DOWNTOWN DEVELOPMENT AUTHORITY of the City of Fort Lauderdale, Florida

*William C. Turney, Jr.*  
Signature

By *Chris Wren* Chairman

Print Name: WILLIAM C. TURNERY, JR.

Attest: *Barbara R. Powell*  
Secretary

\_\_\_\_\_  
Signature

Print Name: \_\_\_\_\_

Dated: 6/25/03

Approved as to form:

(SEAL)

\_\_\_\_\_  
Attorney for DDA

STATE OF FLORIDA )  
COUNTY OF BROWARD )

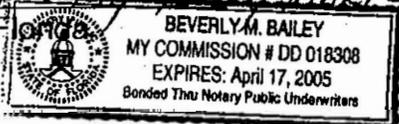
The foregoing instrument was acknowledged before me this 25 day of June, 2003, by Chris Wren, as Chairman of DOWNTOWN DEVELOPMENT AUTHORITY of the City of Fort Lauderdale, Florida. He ~~X~~ is personally known to me ( ) has produced \_\_\_\_\_ as identification and who did (not) take an oath.

*Beverly M. Bailey*  
Signature

Printed/Typed Name: Beverly M. Bailey

Notary Public-State of Florida

Commission Number: \_\_\_\_\_



SECOND AMENDMENT TO OPERATIONS AGREEMENT RELATING TO ARTS AND SCIENCE DISTRICT PARKING FACILITY

**PACA**

SIGNED AND SEALED in the presence of:

THE PERFORMING ARTS CENTER AUTHORITY

*Elizabeth A. Nede*  
Signature

By: *Joseph Amatore*  
Chairman

Print Name: Elizabeth A. Nede

Attest: *Marilyn Manson*  
Asst. Secretary

*William C. Turnbull, Jr.*  
Signature

Dated: 6/23/03

Print Name: WILLIAM C. TURNBULL, JR.

Approved as to form by PACA's Special Counsel, Office of County Attorney, Broward County

(SEAL)

By \_\_\_\_\_  
Andrea S. Froome  
Assistant County Attorney

STATE OF FLORIDA )  
COUNTY OF BROWARD )

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of June, 2003, by Joseph Amatore, as Chairman of THE PERFORMING ARTS CENTER AUTHORITY. He/She () is personally known to me ( ) has produced \_\_\_\_\_ as identification and who did (not) take an oath.

*Marilyn Manson*

Signature  
Printed/Typed Name: \_\_\_\_\_  
Notary Public-State of Florida  
Commission Number: \_\_\_\_\_



SECOND AMENDMENT TO OPERATIONS AGREEMENT RELATING TO ARTS AND SCIENCE DISTRICT PARKING FACILITY

CITY

SIGNED AND SEALED in the presence of:

CITY OF FORT LAUDERDALE

Signature: Safeea B. Ali  
Safeea Ali

By: [Signature]  
Mayor

Print Name: H. Skandridakis

By: [Signature]  
City Manager

Signature: Katerina Skandridakis

Attest: [Signature]  
City Clerk

Print Name: \_\_\_\_\_

Dated: 6-29-05

Approved as to form:

(SEAL)

[Signature]  
asst. City Attorney

~~STATE OF FLORIDA )  
COUNTY OF BROWARD )~~

~~The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2003, personally appeared \_\_\_\_\_, Mayor, \_\_\_\_\_, City Manager and \_\_\_\_\_, City Clerk of the City of Fort Lauderdale. They are ( ) personally know to me ( ) have produced \_\_\_\_\_ as identification and who did (not) take an oath.~~

~~Signature \_\_\_\_\_  
Printed/Typed Name: \_\_\_\_\_  
Notary Public-State of Florida  
Commission Number: \_\_\_\_\_~~

SECOND AMENDMENT TO OPERATIONS AGREEMENT RELATING TO ARTS AND SCIENCE DISTRICT PARKING FACILITY

**DC**

SIGNED AND SEALED in the presence of:

MUSEUM OF DISCOVERY AND SCIENCE, f/k/a THE DISCOVERY CENTER, INC.

*William C. Turnbull*  
Signature

By: *Kim H. Dewish*  
President

Print Name: WILLIAM C. TURNBULL JR.

Attest: \_\_\_\_\_  
Secretary

\_\_\_\_\_  
Signature

Dated: JUNE 20, 2003

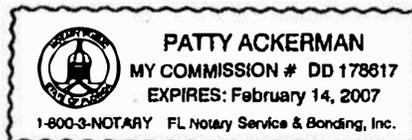
Print Name: \_\_\_\_\_

(SEAL)

STATE OF FLORIDA )  
COUNTY OF BROWARD )

The foregoing instrument was acknowledged before me this 20 day of JUNE, 2003, by KIM H. DEWISH, as President of MUSEUM OF DISCOVERY AND SCIENCE, f/k/a THE DISCOVERY CENTER, INC. He/She ( ) is personally known to me ( ) has produced \_\_\_\_\_ as identification and who did (not) take an oath.

*Patty Ackerman*  
Signature  
Printed/Typed Name: PATTY ACKERMAN  
Notary Public-State of Florida  
Commission Number:



ASF:dp  
05/30/03  
#02-158.08  
dda-parking.a02